

Year in Review

The past year has been dominated by the issue of expanded gambling in Nebraska, culminating in the placement of a constitutional amendment on casino gambling and several initiative measures dealing with expanded gambling on the November 2004 general election ballot. As we now know, these proposals were rejected by Nebraska voters. Leading up to the November election, many county/city lottery operators and other charitable gaming licensees were positioning themselves to take advantage of expanding gambling opportunities should such measures be approved in the election. It remains to be seen what the future holds for charitable gaming now that casino gambling and expanded gambling have been rejected.

OVERVIEW OF WAGERING ACTIVITY

The total dollar amount wagered on charitable gaming activities again declined during 2003-04. Overall, \$259,931,190 were wagered on bingo, pickle cards, lottery/raffle, and county/city lottery for the annual period ending June 30, 2004, as compared to \$263,805,255 in 2002-03. This represents approximately a 1.5 percent decrease from the previous year.

Bingo gross receipts for the year were \$15,370,116, which is almost 7.2 percent less than the prior fiscal year, when \$16,558,843 were wagered on bingo. There was an even greater reduction in the reported number of bingo players on an annual basis, from 683,346 for 2002-03 to 626,305 for the most recent fiscal year. This is more than an 8.3 percent decrease in players.

Pickle card gross proceeds for the year were \$57,510,542, which represents an overall decrease of approximately 8.1 percent, as compared to the previous fiscal year when pickle card gross proceeds were \$62,559,488. The total number of pickle card units sold decreased from 30,572 to 28,073. The declines in the number of nonprofit organizations licensed to conduct a lottery by the sale of pickle cards (23) and of retail locations (pickle card operators) licensed to sell pickle cards (110) were contributing factors.

Lottery and raffle gross proceeds for the year were \$4,860,299, which is almost a 6 percent decline in gross wagering from the prior fiscal year, when \$5,168,480 were wagered. The number of lotteries and raffles licensed each year varies and, accordingly, it is difficult to associate any significance to any increase or decrease in lottery/raffle activity.

County/city lottery (keno) gross proceeds for 2003-04 were \$182,190,233, which is nearly a 1.5 percent increase from the previous year, when \$179,518,444 were wagered. In part, the addition of new communities and keno locations accounts for the overall increase.

The highest dollar amount wagered on charitable gaming activities in Nebraska occurred in 1993-94, just prior to the introduction of casino gaming in Council Bluffs, Iowa, when \$408,222,880 were wagered. Comparing 2003-04 to the peak year, the decreases to date in pickle card gross wagering are almost 68 percent, in bingo over 37 percent, and in county/city lottery (keno) about 11 percent.

LEGISLATION

As noted previously, the possible authorization of casino gambling was at the forefront of legislative activities relating to gambling during the 2004 Legislative Session. The only legislation enacted specifically related to the regulatory responsibilities of the Charitable Gaming Division was a minor change in the gift enterprise law. Whereas nonprofit organizations were previously totally prohibited from operating a gift enterprise activity for business promotion purposes, there is now an exception afforded to any credit union chartered under state or federal law. This statutory change was included in LB 999 and was effective July 16, 2004.

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We continue to receive inquiries regarding technological innovations associated with the sale of pickle cards and pickle card dispensing devices. The use of bar code technology on pickle cards to electronically display the winning or losing status of a pickle card continues to be an area of interest. However, the Division continues to rely on an Attorney General's Opinion (97004) issued in 1997, which concluded the use of bar code technology and a video display was not specifically authorized under the Nebraska Pickle Card Lottery Act and legislation would be required in order to permit their use in Nebraska.

ADMINISTRATION, AUDIT, AND ENFORCEMENT

For the most part, the administrative and enforcement activities of the Charitable Gaming Division during the past year reflected business as usual. However, we have retooled our regulatory focus and placed greater emphasis on county/city lottery, since it represents the largest percentage of charitable gaming wagering in Nebraska — approximately 70 percent for fiscal year 2003-04. The Division's audit staff has spent considerable time evaluating current keno audit and reporting requirements and has proposed significant changes in this area. Some of these changes will require amending existing regulations in order to implement the changes. We anticipate a regulation hearing in early 2005. Included in the proposed changes is the elimination of the mandatory requirement that a county, city, or village have an independent certified public accountant perform an annual financial and compliance audit of its keno operation.

The Division has received inquiries from nonprofit organizations and bar owners regarding the legality of Texas Hold'em Poker Tournaments. Much of this interest can be attributed to the national exposure such tournaments receive on a regular basis on television. The Division's policy has been to refer all such inquiries to local prosecutorial authorities for a determination as to their legality.

The use of illegal gambling devices in Nebraska continues to be a problem which affects other forms of legal gambling. Occasionally, Division inspectors encounter the use of possible illegal gambling devices while performing routine on-site inspections of charitable gaming licensees. Since the Division does not have any jurisdiction with respect to illegal gambling devices, all such instances are referred to the Nebraska State Patrol for appropriate enforcement follow-up. In addition, a letter regarding the suspected illegal device is sent to the applicable County Attorney.

During the 2003-04 reporting period, 123 possible illegal gambling devices were detected in the following counties:

Adams	4	Furnas	6	Howard	5
Boone	1	Garfield	1	Kearney	2
Buffalo	3	Greeley	5	Phelps	11
Chase	5	Hall	6	Red Willow	17
Clay	1	Harlan	30	Saline	4
Dawson	3	Hayes	2	Sherman	1
Franklin	1	Hitchcock	14	Webster	1

The **Charitable Gaming Division** consists of four (4) functional areas: *Licensing, Policy, Audit, and Inspections*.

- ◆ **Licensing** is responsible for the licensing of individuals, businesses, nonprofit organizations, counties, cities, and villages to conduct charitable gaming activities in Nebraska. The number of licenses issued by type is reflected on page 13 of this report, which includes a comparison to the

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prior reporting period. There have been a limited number of nonprofit organizations which have discontinued bingo and/or pickle card activities (29). A number of retail establishments (pickle card operators) which sold pickle cards on behalf of nonprofit organizations (110) have discontinued pickle card sales.

- ◆ **Policy** is responsible for the implementation of legislation enacted by the Nebraska Legislature relative to charitable gaming activities, identification of needed legislative changes in the charitable gaming areas which it regulates, recommendation and drafting of proposed legislation relative to charitable gaming, promulgation of administrative regulations and revenue rulings to clarify and supplement statutory provisions, development and publication of information guides and a periodic newsletter for gaming licensees, and for the rendering of day-to-day opinions and interpretations of charitable gaming laws.

Regulation revisions relating to electronic bingo card monitoring devices and county/city lottery (keno) record keeping and reporting requirements, game conduct, and compliance review have been drafted and are being finalized for public hearing purposes.

- ◆ **Audit** is responsible for the financial compliance review of nonprofit organizations conducting bingo, pickle card, and lottery/raffle activities, as well as counties, cities, and villages conducting county/city lottery (keno). Activities include field audits of gaming operations, the review of annual reports submitted by bingo, pickle card, and lottery/raffle licensees, the review of quarterly tax returns submitted by licensees, and the review of keno audit reports submitted by independent certified public accountants on behalf of counties, cities, and villages.

Activities for the reporting period were as follows:

- 584 Pickle card annual reports reviewed
- 183 Bingo annual reports reviewed
- 306 Lottery/raffle annual reports reviewed
- 58 County/city lottery (keno) annual reports reviewed
- 107 Organizations that did not file timely annual reports identified and referred to Legal, Inspections Section, and/or Investigative Services
- 15 Annual report shortages or audited losses (field visits) identified and referred to Inspections Section and/or Investigative Services
- 23 Other annual report violations identified and referred to Inspections Section and/or Investigative Services
- 16 Other annual report violations identified and referred to Policy Section and/or Legal Services
- 3 Field audits of bingo operations
- 20 Field audits of pickle cards operations
- 16 Field audits of keno operations (county/city lottery)
- 8 Organizations remitting additional tax of \$2,814.00 as a result of the annual report review or bingo audit
- ◆ **Inspections** is responsible for the performance of on-site inspections of charitable gaming licensees. In addition to the main office in Lincoln, the inspectors work out of regional offices located in Scottsbluff, Norfolk, and Grand Island. In addition to performing routine inspections of bingo,

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pickle card, and lottery/raffle activities, the inspectors have recently emphasized inspections of county/city lottery (keno) operations verifying the license status of lottery workers, performing unannounced keno writer drawer audits, reviewing the sponsoring community's controls, and various compliance issues relating to game conduct. Activities for the reporting period were as follows:

- 109 Bingo Game Inspections
- 104 Organization Pickle Card Inspections
- 35 Organization Lottery/Raffle Inspections
- 1,015 Pickle Card Operator Inspections
- 262 Keno Compliance Inspections
- 70 Formal Presentations to Gaming Licensees or Potential Licensees
- 1,453 Mechanical Amusement Device (MAD) Inspections
- 60 Annual Report Reviews and Filing Follow-ups
- 706 Administrative Contacts and Inquiries

The **Investigative Services Division** is responsible for investigative and enforcement functions involving charitable gaming activities, as well as numerous other responsibilities within the Department. Investigative Services staff members are located at various locations throughout the state and have responsibility for general investigations and license applicant background investigations.

Investigative Services continues to work closely with the Charitable Gaming Division on gaming related matters in an effort to keep gaming activities as well enforced as possible, and yet flexible enough to accommodate the public. The investigations conducted by the service area are both civil and criminal in nature and, following completion, a large number of those investigations are forwarded to local prosecuting attorneys for potential criminal prosecution. Investigative Services continues to enjoy an excellent working relationship with various law enforcement agencies and prosecuting attorneys throughout the state. Activities for the reporting period were as follows:

- 1 Manufacturer Background Investigation
- 5 County/City Lottery Background Investigations
- 147 Investigations resulting from alleged violations and/or complaints (all gaming activities combined)

ADMINISTRATIVE/LEGAL ACTIONS

During the reporting period, the Charitable Gaming Division initiated and/or resolved several administrative actions involving charitable gaming license applicants and licensees. Activities for the reporting period were as follows:

Administrative Orders Issued:

- | | |
|------------------------------|---|
| License Denial | 4 |
| Conditional License Approval | 1 |

Administrative Actions Initiated and Pending:

- | | |
|----------------------------|---|
| License Application Denial | 4 |
| License Suspension | 1 |

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Administrative Actions Initiated and Resolved without an Order:

License Application Denial and License Suspension, Cancellation Revocation

Rescinded*	22
Resolved by Operation of Law**	21
Resolved by Stipulation, Suspension, and/or Fine***	3
Dismissed	22
Waiver of Hearing and Voluntary Surrender of License	1

Administrative Fine

Waiver of Hearing and Payment of Fine***	11
Dismissed	1

- * License application denials were rescinded for a number of reasons, including the applicant withdrew the application and the payment of delinquent taxes in instances when the license application denial was based upon nonpayment of taxes.
- ** Resolution by operation of law occurs when a license application denial becomes final because a license applicant does not respond to a Notice of Intent to Deny within the 30-day time period allowed to request an administrative hearing.
- *** Total amount collected \$3,650.00. Monies collected from the administrative fines levied are deposited by the State Treasurer into the permanent school fund.